

JUL 06 2005

Attorney's Docket No.: 10559-494001  
Client's Ref. No.: P11786

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Applicant : James R. Trethewey  
Serial No. : 09/955,469  
Filed : September 18, 2001

Art Unit : 2151  
Examiner : Khanh Dinh


Title : **LOAD BALANCING AND FAULT TOLERANCE FOR SERVER-BASED  
SOFTWARE APPLICATIONS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is **RESPONSE AFTER FINAL TO  
ACTION OF MAY 6, 2005**, faxed this 6<sup>th</sup> day of July, 2005, to the United States Patent and  
Trademark Office.

Date: July 6, 2005

Respectfully submitted,

  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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## MAIL STOP AF

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RESPONSE AFTER FINAL TO ACTION OF MAY 6, 2005

In the Action mailed May 6, 2005, the Examiner issued a new rejection of all of the pending claims 1-40 under 35 U.S.C. 103(a), and made the rejection final. Applicants request that the Examiner reconsider the patentability of the pending claims 1-40.

**Claim Rejections – 35 USC 103**

The Examiner rejected claims 1-5, 9-20 and 24-34 under 35 U.S.C. 103(a) as being unpatentable over Bruck et al. U.S. Patent 6,801,949 ("Bruck"), in view of Brendel et al. U.S. Patent 5,774,660 ("Brendel"). Of these claims, claims 1, 17 and 30 are independent claims. The Examiner also rejected claims 6-8, 21-23 and 35-40 under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Brendel, and further in view of Bowman-Amuah et al. U.S. Patent 6,289,382 ("Bowman-Amuah"). Of these claims, claim 35 is an independent claim.

With respect to claim 1, for example, the Examiner contended that Bruck discloses a method of providing a remote networked computer with a service session using one of a plurality of similarly functioning software applications residing on different servers, and made reference to "front layer" servers 206, 208, 210 and 212 of Figure 2. The Examiner contended that Bruck

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